

Violence in a homeostatic system - the case of Honduras

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Heidrun Zinecker

Violence in a Homeostatic System – the Case of Honduras

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This report was written within the framework of the project funded by the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) entitled “Phenotypes and Causality of Violence in Latin America. High Intensity Violence in Colombia, Mexico, El Salvador and Guatemala, versus Low Intensity Violence in Costa Rica and Nicaragua”. We are grateful to the DFG for its support.

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Summary

In Central America there are currently three countries with high levels of violence and two with low levels. Honduras, along with El Salvador and Guatemala, belongs to the countries with high levels of violence, while Nicaragua and Costa Rica have relatively low levels of violence in the context of Central America. After El Salvador, Honduras is the country with the highest incidence of violence not only in Central America, but in Latin America as a whole. Honduras has a homicide rate which is five times higher than the world average. This high rate refers to a violence which is virtually exclusively violent crime, and which has nothing whatsoever to do with civil wars, revolutions or other armed political conflicts.

The report begins by discussing empirical findings on violence, before going on to look for the causes of the present violence. It takes as its hypothesis, the fact that a particularly significant cause of the high levels of violence is a state security sector which is failing to function as it should, but which nonetheless does not reflect any fundamental failure of the state as a whole. A homeostatic system which was traditionally characteristic of Honduras operated in the past in such a way as essentially to exclude violence. Nowadays, however, the system integrates violence as one of its sub-systems.

The report adopts the aetiological approach as used in criminology, and differentiates between enabling and (absent) preventive structures within the societal structures which cause violence. In its analysis of the enabling structures in Honduras the report initially follows the exclusion principle, by stripping frequently mentioned, anticipated in the long term, but ultimately only putative, enabling structures of any linear-causal sense pertaining to present violence. This involves theories which imply that the present high level of violent crime is a continuation of earlier wartime violence, or that turbulent transitions into democracy simply provide a window of opportunity for high intensity violence in the post-transition phase, or that it is historically handed down economic backwardness, poverty and general inequality of income distribution which cause high levels of violence, or that traditional capacity for reform and political stability are a guarantee of low levels of violence. The fact that Honduras calls these theories into question, and in so doing occupies a key position in a comparison of violence within Central America, is due to the country's specific historical structural characteristics. These are at the basis of a homeostatic system which for a long time excluded violence over a wide area, because it made reforms, inclusion and conflict mediation possible. These country-specific characteristics are: 1) the absence of an oligarchy as a "national class" and any corresponding mechanisms for rule, 2) relatively widespread democratic traditions and a stable political system, based on two traditional parties, 3) political autonomy for the Army and a "soft", partially reformist military dictatorship, 4) "well distributed" poverty, 5) a weak left wing, and 6) a democratic transition "from above" with the (armed) support of the USA.

Since these long-term anticipations do allow an answer to the question of what is specific to Honduras in the form of a homeostatic system, but not to that of the causes of present violence, the report focuses on new configurations in its quest for enabling structures. These new structures arose from the processes of economic and political transfor-

mation at the end of the 1970s and in the 1980s, such as 1) from low to high poverty rates and from a relatively fair to a less fair distribution of income, 2) from old (agrarian) rents to new rents (*maquila* or sweatshop industry, remittances and financial rent), 3) from agrarian rents to financial rents and from a traditionally non-oligarchic elite to a new (financial) oligarchy, and 4) from an inclusive military dictatorship to a more democratic although still politically exclusive regime, as well as from a politicized, politically active to a de-politicized, politically inactive population.

In analyzing the (absent) preventive structures the report concentrates on the state security sector. First of all the point is made that in Honduras there has never been a coherent security policy, let alone any security strategy, to contain the new violence. The Honduran security policy followed the Central American cycle customary in intensely violent countries in the region, namely „creation of a new security sector/making the existing one more democratic – ignorance of the security problem – repressive measures – partial withdrawal of repressive measures”. Instead of bad reality being aligned with good laws, the relatively good laws following transition were aligned with the bad reality. This is illustrated especially by the reform of Article 332 of the Honduran penal code, under which the regulations covering illegal gatherings were extended to include the *maras*.

The report goes on to illustrate the poor performance of the police force (poor investigative action, repressive exercise of violence, loss of independence through involvement of the army in domestic security), judiciary (politicization of the judiciary, exemption from punishment, corruption) and penal system (over-crowding, loss of control, massacres). It will be shown that the police, public prosecutor's office and judges are linked in their lack of performance capacity not in an anarchic way, but in a clear regulatory logic, with the result that non-regulability arises in the security sector system as a whole.

Nonetheless the failure of the security sector in Honduras does not equate to state failure, because the failing security sector is compensated by other, particularly well functioning state (party system, presidency and parliament) and informal structures (clientelism, nepotism, personalism or corruption). Not only the weak security sector, but also non-state violence itself is closely integrated into the system. Political stability exists not in spite of but because of high rates of violence, at least under the precondition that the violence remains criminal and not political in nature. In this way the homeostatic system, from now on with the inclusion of violence, has a new configuration. As a result, violence simultaneously takes the place of capacity for reform, conflict mediation and inclusion, that is, those earlier props of the system, which collapsed in the late 1970s and 1980s. At the same time this ensured the continuation of regime hybridity.

Instead of putting the (democratic) performance capacity of the security sector at risk, it is in the rational interests of the Honduran oligarchy to incorporate the present violence as a new stabilizing sub-system into the homeostatic system which has been knocked off-balance by processes of economic and political transformation. Oligarchies as a minority rule by definition desire no (inclusive) democracy, because they are not interested in abolishing themselves. For this reason, they can also have no interest in making the security sector completely democratic and subject to the rule of law or making it capable of per-

forming better, because this would in the end rebound on them like a boomerang, against their own involvement in corruption, clientelism and organized crime.

In the conclusions drawn by the report, the case is put forward for an integrated strategy for containing violence, aimed not only at all the components of the security sector, but also conceived in both the long and medium term, and at both the economic and political level. At the level of economic enabling structures the report recommends strengthening the middle class and the production of capital goods, so that labour is encouraged instead of criminality, and in the medium term a new kind of conditionality which incites the oligarchy to redirect its rents from the speculative finance sector to that of the production of capital goods. At the level of political enabling structures, inclusion by means of elections should be called for. At the level of preventive structures, focus should be directed at developing an integral security concept and supporting the criminal investigation department and the public prosecutor's office. At the same time, support must be given to those calling for and those practising the rule of law.

The report ends with the hypothesis, explosive in terms of development and peace policy, that it is a mistake to believe that poverty must first of all be tackled so as automatically to bring about the containment of violence as a by-product. Not only war and terrorism, but also violent crime generate extremely high levels of violence and can become a security risk well beyond continental boundaries.

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1. Introduction

The evening news on Honduran television on 4 March 2007 features the usual images: 36 murdered people this weekend – 36, who were actually discovered. The television camera focuses directly on a corpse. The lens zooms in mercilessly on a skull cleft by a machete. Journalists immediately interview the presumed suspect – an elderly man involved in a dispute with his neighbours over a car parked in the wrong place. Another four people murdered, police officers in this case, are even worth a televised panel discussion. Their employers are asked: is there a structural reason for the spiralling violence? Too much rule of law, they reply, which arrived along with the new penal code – a “sistema ultragarrantista” even, in which “unfortunately” witnesses and evidence were necessary for a conviction and criminals could not immediately be given a punishment. Minutes later the security minister announces: Police should avoid going onto the streets – too dangerous, however, the population should be reassured, all the murders were linked with organised crime, so innocent citizens should have nothing to fear. A man on the street asks, what kind of state his own security can be in if not even specially trained and well armed police officers are able to protect their own life. Outraged journalists call for a heavy hand and accuse the minister of left-wing tendencies, after all he used to be involved with human rights. Someone like this is not fit to be security minister, at most he should be culture minister, if a minister at all. And who is guilty of all the violence? The *maras*¹ of course, those well-known bands of youths, and organized crime in general. Is that the same thing? Obviously, in any event violence is caused by youths, and these had been in the service of organized crime for years. They had lost any kind of values, and any kind of sense of law and order. What could be done about this? Quite simply – remain extremely vigilant, especially if youths come anywhere near you, and naturally be unmerciful in the way you deal with them. To this end, every citizen is legally allowed to possess five weapons. Why should they not make use of them?

Every single one of these pieces of advice is disconcerting. Nevertheless, they are not just empty talk. Every day they are put into practice in Honduras: if a youth wants to enter a bank, he is forced to lift up his shirt. If there are tattoos hidden under his clothes (the *mareros* got themselves tattooed for many years), he will not be allowed to use this branch of the bank as a matter of course, because he is without doubt member of a *mara*, de jure a criminal and certainly a murderer. If several youths are walking along a relatively quiet street in broad daylight, a police pick-up will pull up beside them and four guns will be aimed at them. If these youths are lucky, they will have no tattoos, be neatly dressed, and not dark-skinned from labouring outdoors. Then the guns will probably be withdrawn, otherwise they will be fired. But even these well-dressed young men – why are they not driving a car like any normal person? This is the everyday cynicism of someone whose Rover is armour-plated.

1 The name *mara* used to describe a certain kind of youth gang comes from “*con mis amigos*” (with my friends), but was later traced back to *marabunta* (killer ants which caused immense destruction in Brazil in a 1970s film).

In 2006 homicide rates in Honduras – the most reliable of all violence rates – came to almost 43.8 per 100,000 inhabitants. That is five times the world average. This places the country after El Salvador (56.2 – 2006), but still in front of Colombia (39 – 2005) and Guatemala (37.53 – 2005) at the top of the Central and Latin American league of violence. Just like El Salvador and Guatemala, but unlike Costa Rica and Nicaragua, which with homicide rates of 8.1 and 3.4 could count as having a low level of violence, Honduras belongs to the intensely violent countries in the region.

The Federal Republic of Germany should be particularly interested in the nowadays extreme problem of violence in Honduras: the country is one of five Latin American focus partner countries for German development cooperation and the second greatest recipient of EU aid in Latin America. The Federal Republic of Germany is the largest European trading partner of Honduras. Honduras can be proud of having reached in April 2005 the completion point within the framework of the debt relief initiative largely initiated by the Germans for heavily indebted poor countries (HIPC), a multilateral debt relief initiative. This was intended to give fresh impetus to implementation of the Poverty Reduction Strategy Paper (PRSP), accepted by the World Bank and IWF 2001 and due to be implemented by 2015. While it did manage to “halt” the development of poverty, it did not – as was its objective – reduce poverty (European Commission 2007: 9). Quite apart from the fact that the Federal Republic of Germany was faced with the problem that such a high sum of development funding had not achieved its objective – a substantial reduction in poverty, it must ask itself what German development cooperation has to do with a focus country in which people are systematically killing each other, and this in peacetime.

There is no doubt that even in documentation Honduras is the case of violence in Central America which attracts the least attention – there are no systematic analyses or plans at all. However, before strategies for containing violence can be elaborated, the causes of the problem have to be discovered. This report is based on, besides relevant secondary sources, 40 interviews with experts, conducted by the author in Honduras in February/March 2007. Those interviewed were ministers, human rights representatives, police officers on active service and who had been released from their duties, members of the Supreme Court, ex-public prosecutors, prison directors and *mareros*, members of parliament, academics, doctors and relatives of victims of violence.² Although the report sees itself as a country case study, it attempts a comparison within Central American boundaries, so as to make the specific aspects of Honduras clear.

The following causal analysis of present violence in Honduras adopts an aetiological approach commonly used in criminology, for the violence predominating in Honduras is primarily criminal in nature. This approach follows the hypothesis that there are “conspicuous” social structures which in certain life situations exert a social pressure towards deviant behaviour. Within these social structures, enabling and preventive structures can be distin-

2 The author is grateful to the interviewees for being prepared to talk about this delicate and difficult subject matter. She is also grateful to the Embassy of the Federal Republic of Germany and the representative of the Friedrich-Ebert-Stiftung in Honduras, without whose remarkable cooperation most of the interviews would not have been possible.

guished (Zinecker 2006: 20f): enabling structures offer a breeding ground for violent crime. Preventive structures can – alone or acting together with modifications of individual enabling structures – manage to stop violent crime breaking out in spite of the presence of enabling structures. If preventive structures are absent or are not working properly then this increases the effective power of the enabling structures. If on the other hand preventive structures are working well, then – as is illustrated in Central America by the example of Nicaragua (Zinecker, forthcoming) – violence itself can then be contained once and for all, even if enabling structures are present. Even if as a result economic and civil society protagonists are allocated a crucial role, in the end they too fail if the state security sector (police, judiciary, penal system) fails to function.

For this reason this report concentrates on the state security sector. Its hypothesis is: a state security sector which is not in working order in Honduras is not evidence of a fundamental failure to function by the state. The fact that the state continues to function in a stable way despite a high incidence of violence is due to a “homeostatic system” (Schulz 1993: 5), a dynamic system in a constant state of balance, which in the past essentially excluded any violence, but which now has incorporated it as part of itself and needs it in order to function. A system can be said to be homeostatic if it maintains a dynamic state of balance so as to ensure its continued existence observing the demands of its own regulatory facilities.

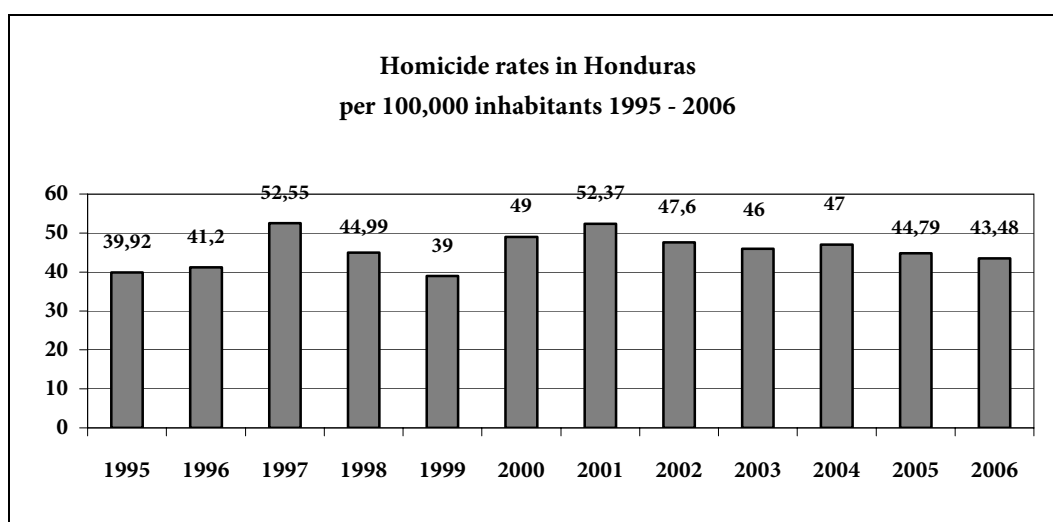
2. Empirical evidence: Rates and forms of violence

While this report does focus on the causes of violence, it will begin by presenting the empirical evidence on its rates and forms. Although the country has experienced no civil wars or notable revolutionary violence during the 20th century, it has a tradition of criminal acts, including theft of livestock, disputes over land ownership or inheritance which have been resolved using violence, or indeed the vendetta, which took on violent characteristics principally when and where the state security sector was not present and as a result the law could not be enforced in a peaceful way.

Even though Honduran violent crime is therefore older, it was not officially acknowledged until the end of the 1990s, after Hurricane Mitch had torn across the country in 1998, claiming all the attention for itself (Ordóñez 2007). In the mean time, not only had rates of violence risen, the intensity of violence had transferred itself from the country into the city – it had “migrated” there. Increasingly, the perpetrators were migrants from rural areas, or their children (Caldera 2003). Nowadays 8 % of the rural population, 11 % of the population in medium-sized cities and 13-16 % in the central regions, home to the two largest cities Tegucigalpa and San Pedro Sula, admit that at least one person in their family has been murdered (PNUD 2006: 14). In the major cities 65 % of the population no longer go anywhere on foot, and 40 % no longer visit their nearest and dearest (PNUD 2006: 14). Only 13.6 % of the total population feel themselves to be safe (CEDOH 2004a: 47). Murder and manslaughter account for 25 % of all serious crimes (CEDOH 2004: 44).

In 2006 Honduras had the second highest homicide rate in Latin America and an average daily total of 8.3 crimes involving a killing. The unofficial figure is much higher. It is estimated that the number of homicides is ten times greater than that officially stated (Caldera 2003: 19). Since 2002 official figures have also varied considerably: while the police force, on whose data Figure 1 is based, claim an almost continuous decline in homicides, the criminal investigation department (Dirección General de Investigación Criminal – DGIC) and specialists on violence (e.g. Raudales 2006: 206) assume an increase in levels of violence after this time – thus the criminal investigation department data for 2002 are higher than those of the police force by 915 cases (CEDOH 2004a: 158).³ The national representative for human rights Ramón Custodio confirms that there have been even more individuals murdered and imprisoned under the government which took up office in 2006 than under its predecessor (Custodio 2007). Figure 1 should therefore be viewed with reservation. The data are only being used here because there are no other long-term homicide figures available.

Figure 1

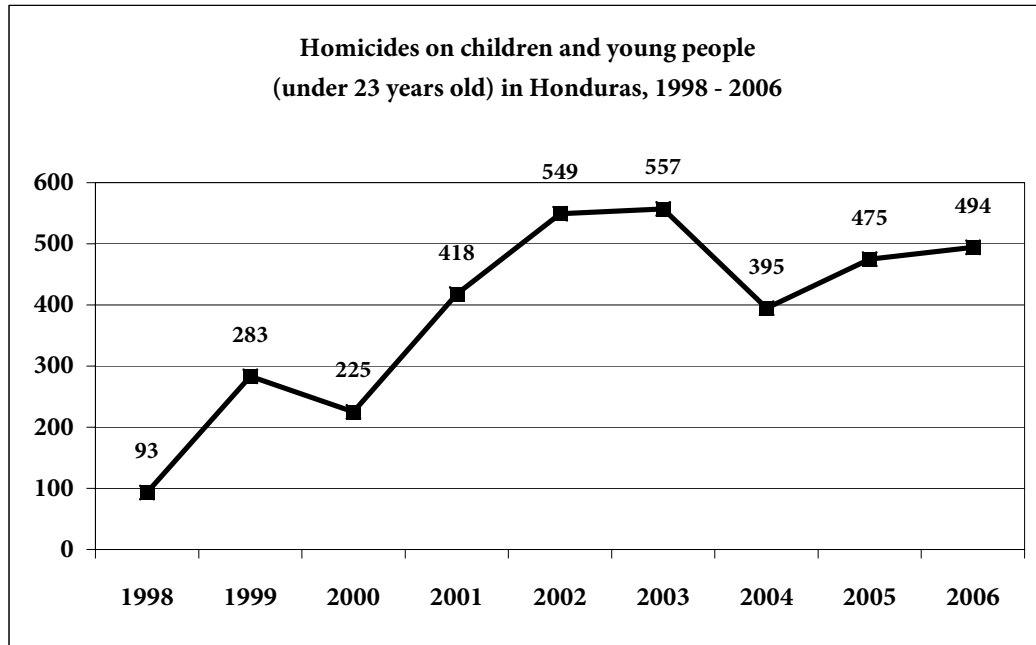


Sources: For 1995-2002 (absolute figures/matched with the respective population figure): Rodríguez 2003: 308. For: 2003 and 2004 (relative figures): Report 2006. For 2005-2006 (absolute figures/matched with the respective population figure): República 2006: 2.

If one takes the criminal killing of children and young people as the most important indicator for the overall graph of violence, then a renewed increase in homicides is apparent after 2000 and again after 2004.

3 Both the runaway years 1997 and 2001 are probably also, but certainly not only, linked with restructuring within the police (cf. Chapter 3.2.3.). These changes led to the police registering more crimes after this point (CNDHH 2003: 12).

Figure 2



Source: Casa Alianza 2007: 26.

Homicide figures for the period prior to 1995 are not available. However what speaks volumes for this period is the fact that the number of violent acts reported to the criminal investigation department between 1988 and 1994 nearly trebled – from 9,499 to 25,192 (Torres 2006: 153). It is possible to conclude from this that the homicide rate prior to 1990 was significantly lower than it was afterwards, and that the breaking point must have come at the end of the 1980s and beginning of the 1990s. If one accepts Figure 2 as a correction to Figure 1, then Honduras's homicide graph resembles that of Guatemala and El Salvador, in that all three cases follow a sine curve.

In 2006 93 % of perpetrators of violence were men and 7 % women, the majority of whom were aged between 25 and 29 years old, followed by 35-39 year-olds. There were more victims among the 60-64 year-olds than among the 15-19 year-olds, but fewer perpetrators (Observatorio 2007: 4). The majority of crimes involving a killing were carried out on Sundays and during holidays, especially at Easter, on the street and at home, many fewer however in bars or discos. The victims are mainly malnourished, sunburnt and of a rustic appearance (Torres 2007).

In the case of both men and women – according to a survey carried out in two prisons – a third regret their action. In the case of women, a further third are primarily scared after the deed, while in the case of men this figure is only 3 %. Of the men, almost two thirds feel calm, feel good or feel nothing. Asked about the reason for their deed, a third of the men cite money, and 16 % each cite defence and personal interest. In the case of women, it is the need to feed their children – and therefore ultimately also economic resources – which was the prime motivation for a third of them (Ramírez et al. 2007: 2).

The number of children and young people (0-18 years old) and young adults (18-22 years old) killed is particularly striking, quite apart from the sexual violence inflicted upon minors. After all, 12 % of all homicide victims are minors. Between 1998 and 2007 there were 3,489 murder victims in Honduras who were younger than 23 years old (including 1,211 children). Between 2004 and 2006 this figure rose by 20 % (Casa Alianza 2007: 12f). This amounted to some 41 children, young people and young adults being killed per month. In 14 % of cases the perpetrators were police officers (Herrera 2007), carrying out executions outside the law (Casa Alianza 2007: 12-16). The corpses are found in street graves, in open countryside, in ditches or in rubbish tips, always far removed from the scene of the crime. They bear traces of torture or shots to the head and are bound hand and foot. Only in 6 % of cases are the perpetrators brought to justice (Herrera 2007). Most of these homicides occurred in San Pedro Sula and Tegucigalpa, but also in Comayagua, as a rule in isolated districts, because access to them is difficult due to the poor infrastructure, and/or because living conditions there are so extremely restricted (*hacinamiento*) that life has to be played out on the streets.

Thus, as in Guatemala and El Salvador, in Honduras too it is not the departments with the highest level of poverty which have the highest homicide rates. The departments with the highest levels of violence have remained the same over recent years: Copán (66.5 homicides per 100,000 inhabitants), Cortés (61.5) and Francisco Morazán (55.9). With a poverty index (2004) of 37.7, 25.5 and 27.1 these belong to the wealthiest departments however. In contrast it is the departments with the lowest homicide rates, Gracias a Dios (1.5), Intibucá (6.1) and El Paraíso (7.1), which have the highest (Gracias a Dios) and the third highest (El Paraíso) poverty rates (poverty rates: PNUD 2006: 227-232; levels of violence: Observatorio 2006: 2).

San Pedro Sula and then, already further behind, Tegucigalpa are the cities with the most homicides and the most criminal acts overall. Some 60 % of all crimes are perpetrated in these two cities (Caldera 2003: 18). Furthermore, in large urban centres there is far more manslaughter than murder – fewer than 10 % of homicides are murder – unlike in smaller cities where the proportion of murders is comparatively higher. 95 % of all *mareros* live in the two big cities (Salomón 2007). Consequently there are – counter to the story continually circulated – hardly any *mareros* in the majority of cities, and in the countryside there are in any case none at all. If, as is overwhelmingly common in Honduras, people ascribe responsibility for the violence entirely to the *maras*, then it remains inexplicable why there is so much violence also outside Tegucigalpa and San Pedro Sulas.

If one is to believe the media, the proclamations of the previous government, and also statements which continue to be made under the present government, for instance by members of the police force, then the majority of the crimes and acts of violence are to be blamed on the *maras*: José Leonidas Cantillano of the police division, who is responsible for *mara* prevention, explains that three-quarters of all violent crimes should be answered for by the *maras*, “because the *maras* are made for this” (Cantillano 2007). Academics specializing in the study of violence reject this: Leticia Salomón, a particularly famous Honduran social scientist, is of the opinion that the *maras* “bring no fundamental weight at all to bear within the homicide structure” (Salomón 2007). She suspects that the major-

ity of the perpetrators are part of normal delinquency, only then followed by the *maras*, and lastly by organized crime (Salomón 2007). Felix Maldonado, Comisario of the criminal investigation department, confirms how prominently normal delinquency features within the incidence of violence (Maldonado 2007).

In the final analysis further evidence is provided by the fact that between 1996 and 2000 the under-18s accounted for only 5.5 % of all punishable offences (Raudales 2006: 210; Bussi 2007) – these include not only homicides but also robbery or burglary, and furthermore that it could not have been the *maras* who were responsible for the majority of homicides because the under-18s form the majority within the *maras*. In 2002 only 20 % of murders of minors were blamed on conflicts between the *maras* (Raudales 2006: 210). Leticia Salomón states for the record that she has for a period of three years asked her students if they have ever seen a *marero*, and only one student has replied yes (Salomón 2007). Even representatives of the present government, such as security minister Álvaro Romero (2007) and defence minister Aristides Mejía (2007), in contrast to the previous government realistically start from the assumption that the majority of crimes originate from organized or normal crime. This statement has to be seen in relative terms however, in so far as the *maras* are perceived by the government to be part of organized crime.

Although the weight of the *maras* within violent crime should not be overestimated, Honduras is the country in Central America with the largest distribution of youth gangs or *maras* (Carranza 2006). Only then come Guatemala and El Salvador. The origins of youth gangs date as far back as the 1960s in Honduras, when in San Pedro Sula the *Stompers* and the *Armandos* were causing a furore (CEDOH 2004b: 9). During the Cold War youth gangs with right-wing sympathies got together, likewise in San Pedro Sula, which took action against the youths with left-wing tendencies. In the 1980s there are thought to have been some 60 to 80 youth gangs already, each of which had no more than a dozen members, and these gangs are thought to have acted essentially independently of each other. Their concentration and criminalization took place in the second half of the 1990s, under the influence of the Mara Salvatrucha (MS) and Barrio 18 gang members expelled from the USA. In the process many of the existing youth gangs were converted into *maras* (ERIC 2005: 44). From now on it was no longer the local youths hanging around on street corners, but groups taking action, which were increasingly structured, organized and criminalized (Castellanos 2007). The MS appeared in Honduras in 1987 and Barrio 18 in 1993. In 1999 there were already 112 *clicas* (*mara* cells) in Honduras with some 36,000 members (Carranza 2006). Nowadays there are 3,000 *mareros* registered on the criminal investigation department database (*fichados*), this is supposed to be, according to Felix Maldonado, 25 % of all *mareros* (Maldonado 2007), who thereby supposes a lower *marero* figure in total than Marlon Carranza. In Honduras there are 150 *clicas* organized by district, which act as three *jengas* (brigades), whose composition for their part is determined by regional criteria (Cantillano 2007).

If one takes the percentage share in the total number of *mareros* serving a prison sentence as the point of departure, then there have for a long time been far more *mareros* belonging to the MS than to Barrio 18 (Carranza 2006: 242). Barrio 18 is generally, and in Honduras more rigidly, structured, militarized and at the same (slightly) more political

than the MS, which in Honduras is supposed to be a subsidiary of the Salvadoran MS. In January 2007 Barrio 18 even managed, with the government and Roman Catholic Church to negotiate a possible amnesty. However, these negotiations failed, as negotiating leaders from Barrio 18 were murdered. In any event young people choose which *mara* they join not by these criteria, but simply according to where their friends are and which *mara* holds the upper hand in their district. *After* choosing their *mara* however, young people are glad if their identity reflects their respective *mara*, which they will then defend – using violence (Torres 2007). As in El Salvador and Guatemala however it is nowadays no longer the quest for identity, liking and solidarity which can be said to be central as a motive for the existence of *mareros*.

For one thing, entry into the *mara* is increasingly due to the desire to overcome exclusion by exercising power oneself, that is, “so that the one who was a nobody before is now a somebody again” (Ordóñez 2007). If the *mareros* used to be vagabonds, drug addicts and young people who felt lonely and unfulfilled, “they have now drunk from the spirit of difference”, which has restored their sense of self-worth. “Now they are different, they belong to a *mara*, and they take pride in that.” (ERIC 2005: 105) This new feeling of self-worth feeds on – armed - power, exercised by the *maras* in their part of town and which they “must” defend against that of the other *mara*.

For another thing, young people are tempted into the *mara* by the promise of (a little) more wealth. Later on, not least in view of the increasing influence of organized crime (drugs trafficking, money-laundering, organized car theft), efforts to make profit became the foremost goal of the *mara*, whereby initially this mainly took the form of minor robberies, stealing trainers, rucksacks or mobile telephones, before moving on to higher amounts and taxes (Flores 2007). Violence is therefore a means to an end for the *maras*, firstly to occupy particular territories and then to bring in economic profit on this basis (Maldonado 2007). If for young people nowadays everything, that “paradigm” – promises by the government and political parties, hopes for greater wealth and family cohesion, even life itself – has lost its value, ultimately it is only money itself which retains its value. In this way, money becomes for young people the only “value paradigm” which can compensate for the otherwise prevailing loss of value (Torres 2007).

However, even nowadays not all youth gangs in Honduras are *maras*. Even under the so-called Californian *maras* not all possess a territorial and structured character, some of them are nomadic and unstructured (Raudales 2006: 220). The *maras* should on no account be confused with the gangs of organized crime. These are *only* orientated towards making a profit and lack the identity typical of the *maras* (Raudales 2006: 221). This includes the fact that *maras* are employed by such gangs, especially in the drug trade.

3. Attempts to find a causal explanation

3.1 Enabling structures

The potential enabling structures for the violence currently predominating in Honduras will be analyzed from two perspectives in this report: firstly, in a synoptic long-term survey the causal nature of putative old enabling structures repeatedly put forward as being causal in relevant literature will be called into question. Then for the present violence new and actual enabling structures are identified, which are the result of more recent far-reaching transformation processes and nowadays, expressed in quite general terms, manifest themselves as new rents⁴ and regime hybridity (cf. 3.1.2.).

3.1.1 Putative old enabling structures

In order to reveal the roots of the present violence, it is generally customary to look into the past, emphasizing continuity of violence and seeking enabling structures anticipated in the long term. However, here Honduras contradicts apparently commonly valid theories, as for example:

- *that the present high rate of violent crime is a perpetuation of earlier wartime violence:* With regard to the homicide rate Honduras, together with El Salvador and Guatemala, can be included in the group of intensely violent countries in Central America, although it, unlike the others, did not feature either a civil war or revolutionary violence of any significant extent during the years of the Central American conflict. Nicaragua, in the same context in terms of time an example of two extremely bloody civil wars and highly aggressive revolutionary violence, confirms the same thing from the other perspective – that in Central America there is no causal relation between civil war, revolution and present violence;
- *that the nowadays high level of violent crime is the perpetuation of an earlier extremely repressive violence by military dictators:* Honduras, in contrast to both the region's other intensely violent countries El Salvador and Guatemala, in the 1960s, 1970s and 1980s had no particularly repressive and violent military dictatorship incapable of reform. Therefore an additional, often assumed, but just as putative, causal relation – between previously state- and nowadays no longer state-perpetrated violence - can be discounted;
- *that merely turbulent transitions to democracy create a “window of opportunity” for high levels of violence in the post-transition phase:* Honduras's transition was orderly and less

4 Rents are a surplus which is independent from state intervention, which is distinguished from the profit growing out of free competition and shaping of society as a market economy. It is a case of a monopolistic extra profit, which *ought* not be hidden in the expansion of production, because otherwise an increase in supply and fall in prices would follow.

turbulent than that of its neighbouring countries, as here there was not only no strong revolutionary left-wing, but the transition otherwise took place “from the top down”. Honduras is an exemplary illustration of how it is unimportant for the violence rate after transition, whether the transition took place with or without revolutionary pressure, in a reactive or preventive way, or called for “from below” or controlled “from above”;

- *that it is historically handed down economic backwardness, poverty and general inequality of income distribution which cause high rates of violence:* In actual fact Honduras has certainly always been particularly backward in comparison with the rest of Central America. However, this also applies to Nicaragua, which calls this particular kind of causality into question, because Nicaragua nowadays has low levels of violence. At the same time, in Honduras, at least until 1977, income even among the poor was always fairly distributed and socio-economic polarization was far less than in both neighbouring violent countries El Salvador and Guatemala. Honduras here is far more like Costa Rica (Booth/Walker 1993: 117-121), with the result that here too a causal relation is invalid;
- *that traditional capacity for reform and political stability were a guarantee of low levels of violence:* Honduras was, although unlike Costa Rica always a particularly backward country, like Costa Rica characterized by a great willingness for reform on the part of the elite and by political stability – this also during the revolutionary period of the 1980s in Central America – and in this respect comes after Costa Rica on this point too (Fonseca 2001: 273; Gärtner 2002: 481). This “Costa-Rican” trend in Honduras’s history stands in contrast to its now high levels of violence, in contrast to Costa Rica.

Honduras therefore has a key role to play in comparing the causality of present violence within Central America, as it raises a question over relevant assumptions made in research into violence. Using an historically structured synopsis reasons will be given for raising these questions: the basic hypothesis is the fact that Honduras has been able to establish a homeostatic system over the centuries in economic and political terms, with which it has succeeded in releasing that pressure with the aid of outlet valves which in other Central American countries has provoked revolutionary violence and civil wars. How this happened will now be illustrated systematically, using the following six points:

1. There is no oligarchy as a “national class” nor any corresponding mechanism of rule

In Honduras an oligarchy, including any linked to the coffee industry, was originally missing as a “national class” (Gärtner 2002: 498, Boussard 2003: 127). This was due to the limited Liberal Reforms here at the end of the 19th century. At the same time, foreign banana enclaves guaranteed that in Honduras, quite unlike in El Salvador and Guatemala, traditional agrarian relations remained largely intact, whereby – at least for a long time – it was possible to avoid the socioeconomic polarization so typical of both the other intensely violent countries in the region (Lentner 1993: 55). In the perception of its population, in Honduras “even the wealthy were always poor”. The Honduran elite, fundamentally weaker in comparison with the rest of Central America, was always less “aristocratic” than its counterparts in Central America (Schulz 1993: 19). It prioritized paternalism, clientelism, reforms and conflict mediation above repression and also far above war and

willingly allowed workers and peasants to organize themselves into trade unions and political movements, to negotiate with them and so incorporate them permanently into the system.

2. *Relatively pronounced democratic traditions and a stable political system, based on two traditional parties*

Because of the absence of a traditional oligarchic rule Honduras has – with the exception of Costa Rica – the greatest democratic traditions on the isthmus. The two-party system which has predominated in this country since the end of the 19th century – in the mean time also even taking on traits of a consociational democracy – consisting of Partido Nacional (PN) and Partido Liberal (PL), which includes opposition parties which do not carry any great weight⁵, was the best guarantor of this (Salomón 1994: 47). In this respect Honduras differs both from Guatemala, where the party system is extremely weak and fragmented even today, and from El Salvador. This latter, although likewise having a dominant two-party system, it is not traditional, in contrast to that in Honduras, and consists of a governing and a radical (left-wing) opposition party, which Honduras does without. This party system traditionally based on two pillars in Honduras is one of the foundations of a remarkable political stability. “Everything can go wrong in this country, but the two traditional parties always land, cat-like, on their feet” (Equipo Envío 2006: 5). The parties manage to do this because clan, *camarilla*, *cacique* and corporate interests are given plenty of prominence (Barahona 2006: 15).

3. *Political autonomy of the army and “soft”, at times reformist, military dictatorship*

The political autonomy of the Honduran army has its roots in its economic independence from the economic elite, which on the one hand was based on the fact that the army was itself an entrepreneur in this country, with its own banks and businesses. Nonetheless from 1963 to 1982 – just as long a time as in El Salvador, Guatemala and Nicaragua – Honduras was governed by authoritarian regimes and military dictatorships. However in contrast to its equivalents in Central America the Honduran military was no junior partner of the oligarchy, which allowed it to use the arena for its own reform projects (Gärtner 2002: 501). The Honduran regime was therefore always a “dictablanda” (soft dictatorship) and as such more moderate and more pluralistic (Boussard 2003: 151) than the classic “dictaduras”, which held sway in El Salvador, Guatemala and Nicaragua. Admittedly Honduras’s military dictatorship also used repressive measures, but unlike the dictatorships in neighbouring countries it did this in good time, in a more selective and less intensive way: in Honduras there were “only” 184 *desaparecidos*, in the three other military dictatorships in the region on the other hand tens if not hundreds of thousands of people met a violent death. At the same time, the presence of the military in the political system was more to blame on the retreat by civilians – both traditional parties courted the favour

5 The dominant two-party system has in the mean time been topped up with three opposition parties, with a total of eleven elected members of parliament between them (the two major parties have over 117) and which received 4 % of the votes in the presidential elections of 2005.

of the military – than on any imposition on the part of the military (Salomón 1994: 71). What is more, Honduras stands as an excellent example of the fact that even military dictatorships can promote fair distribution, as in the second term in office of General Oswaldo López Arellano (1972-1975). In this man Honduras had a president who implemented an agrarian reform within the framework of a military reformism not unusual for this period in Latin America in favour of small- and medium-sized farming. As a result of this reform the percentage of landless peasants was for a long time much lower than in El Salvador, Guatemala and Nicaragua. As far as its established result is concerned, up until 1979 there was no more radical agrarian reform in Latin America (except Cuba) than the Honduran one. As a result the regime had an important support in the peasantry despite, or precisely because it could organize itself. The inclusivity of its military regime – although this declined after the departure of López Arellano – is an additional basis for the remarkable political stability in Honduras.

4. *Well distributed poverty*

It is true that poverty has always left its mark on Honduras, however this was for many years better distributed – in and between the lowest quintiles – than in its neighbouring countries. As a consequence Honduras was always less polarized economically and politically than Nicaragua at the time of the Somoza dictatorship and El Salvador and Guatemala to date (Cáliz 2007). Apart from a peasant middle class made relatively strong by the agrarian reform, workers in Honduras also had slightly higher wages, and there was less unemployment than in both other intensely violent countries in Central America. At the same time, the slower growth of GDP here also led to a lower rate of deprivation in relative terms.

5. *Weak left-wing*

The Honduran left-wing, particularly the Communist Party, idealized the capacity for reform of “its” military, especially General López Arellano, and viewed its reforms as a revolution, which persuaded them for a long time to distance themselves from any revolution of their own. Later, admittedly, the left-wing re-orientated itself in favour of armed conflict. However, it viewed this more as the basis for support of the other Central American revolutions than of its own. After an unsuccessful interlude involving armed conflict the Communist Party, and also the smaller guerrillas of the 1980s, dissolved themselves (Funes 2007; Pineda 2007; Rodríguez 2005). The Communist Party had been as unsuccessful as the guerrillas in mobilizing the masses. The left-wing hope that there could be a domino-effect, with Honduras then able like Nicaragua to carry off the victory of a revolution (Funes 2007), proved to be an even greater delusion in Honduras than in El Salvador and Guatemala.

6. *Transition “from above” with (armed) support from the USA*

The USA knew how to use the weaknesses of the left-wing to their strategic advantage and wanted to preserve them. It therefore gave encouragement and support to the Honduran

elite and their dictatorships in an attempt to bring about the transition into a democracy in good time, pre-emptively and on their own terms. Since the military itself became more democratic, the left-wing lost its main enemy at the same time. Despite the transition towards greater democracy which started up at the same time, Honduras received the greatest amount of military aid from the USA of any country in Latin America, after El Salvador. The country was the deployment zone for 10,000 Nicaraguan Contras funded by the USA. Under this influence, the Honduran army doubled in size and Honduras became, once again simultaneously with the beginning of the transition towards greater democracy, a particularly militarized state, also known as the “Pentagon Republic” (Bousard 2003: 162). The fact that within the “third wave of democratization” Honduras in all of Central America had the transition controlled most strongly “from above”, that is by the military governments and then also by the USA, with the least mobilization “from below”, led to the army being, with the exception of Costa Rica, the last in the region to fall under civilian control (Bousard 2003: 126f), and the police force being particularly late in separating itself from it.

In long-term predictions there is therefore, as was evident, no justification for the rates of violence which are nowadays so high in Honduras, however there may well be for a well functioning homeostatic system which for a long time due to its homeostasis – rooted in a specific configuration and the capacity of the elite for reform and mediation – excluded high rates of violence. How it is then to be explained that the Hondurans, who were once “beggars and thieves, but not murderers” (Schulz 1993: 2), nowadays tend in such large numbers to exercise violence, including murder? And how is it to be justified that the earlier considerable readiness on the part of the state to embrace inclusion, reforms and conflict mediation has now, especially in the containment of violence, been replaced by repression? And what effects does this transformation have on the homeostatic system? As the long-term predictions do not permit a reply to this question, enabling structures must be found for it which are new.

3.1.2 Actual new enabling structures

The search for such new enabling structures cannot restrict itself to discovering the specific details about Honduras, as because of its levels of violence Honduras finds itself in the middle ground of Central America’s intensely violent countries, therefore neither right at the top nor right at the bottom. Instead, a comparative strategy must be adopted, with which those factors can be uncovered which Honduras shares with both the other intensely violent countries in the region, but not with both the countries in the region with low levels of violence.

Honduras, according to the hypothesis put forward here, missed the opportunities offered by its homeostatic system, predicted to be long-term, which essentially precluded violence. These missed opportunities were that economic and political egalitarianism which in Honduras was for a long time much greater than both the other currently violent Central American countries, but which has now given way to a socio-economic and political polarization, as such largely resembling both the other violent countries. On the

one hand as a result the Honduran middle class – the third quintile has the lowest income share in Central America (PNUD 2006: 63) – is economically weak and almost entirely lacking in political presence, in the form of specifically middle-class parties. While in both other intensely violent countries a middle class such as this always has been and still is now almost inexistent, in Honduras it was a question of a new manifestation, which could have been handled with a different policy, if it had made use of the aforementioned opportunities. On the other hand, Honduras has lost its earlier capacity for including underlings economically. This expresses itself politically not so much in terms of their radicalization, but in greater passivity.

As far as *economic* enabling structures for the present violence are concerned, there has been a complete transformation in Honduras in favour of a new bipolarity between oligarchy and the poor. New rents (remittances/income from people working abroad, *maquila*/outward processing sector and financial rents) have supported this process of polarization. Rent economies, which were driven by old agrarian rents (coffee, cotton, sugar, and banana rents) and which were repressed, as in Costa Rica and Nicaragua, leave room for a relative socio-economic egalitarianism and thus not for violence. New rent structures on the other hand encourage violence. This transformation to less egalitarianism took a relatively long time in Honduras and featured several breaks – from the 1970s to the present. In reality there was a transformation in four areas.

1. *From low to high poverty rates and from a relatively just to a more unjust distribution of incomes*

This development began after López Arellano had to resign his office in March 1975 and the agrarian reform was rolled back, and it was given fresh impetus in the course of the substantial structural adjustment in the 1990s, rather late in Honduras, but no less substantial (Barahona 2005: 282-292). Between 1977 and 1985 income in the agrarian sector collapsed. From 1985 to 1987 there was a very slight recovery, until a renewed collapse in 1990. Incomes in the agrarian sector not only fell to below the level they reached during the term of office of López Arellano, but even below their previous level: since 1982 income had always been lower than in 1971; in 1999 it reached its lowest point (Walker/Pino 2004: 16). A further drop in income in rural areas was provoked by migration. The objective of this has altered: where Hondurans earlier migrated from rural areas into the cities, and only then from there to the USA, now they are more often emigrating straight to the USA. The poverty rate in Honduras has risen since the second half of the 1970s. Between 1991 and 1999 it remained constant, only to rise again after this and remain permanently high between 2001 and 2005, in spite of the PRSP and remittances. Today the Honduran poverty rate is the highest in Central America.

The Gini coefficient, which measures the overall distribution of income, has also risen in Honduras since the end of the 1970s. In 1986 it came to 0.454, in 1994 0.459 and in 1998 as much as 0.572.⁶ Between 1994 and 1998 it even rose by more than 0.1 points. In

6 Cf. http://are.berkeley.edu/~sadoulet/papers/RIW_Appendix_B2.pdf (accessed 07.11.07).

2003 it then fell slightly, to 0.568 (PNUD 2006: 9). As a result the Honduran Gini coefficient is now neither at the bottom nor the top of the Central American scale. It is lower than in Guatemala and also in Nicaragua. As far as the Human Development Index (HDI) is concerned, Honduras initially, after 1995, recorded a continuous upturn and overtook Guatemala and Nicaragua. However, between 2001 and 2004 this evolution stagnated, so that Honduras again occupies last place in Central America.

In Honduras, therefore, since the end of the 1970s the three most important indicators measuring welfare – poverty rates, Gini coefficient and HDI – have got worse in absolute or relative (HDI) terms. However these factors do not per se explain the Honduran dynamic of violence, as in the first place Nicaragua, almost as poor and even less just, has markedly lower rates of violence, and in the second place even in Honduras it is not the poorest regions which feature the highest rates of violence. The factors cited explain the present high rates of violence only in so far as they are reinforced by additional processes of transformation.

2. From old (agrarian) rents to new rents (*maquila*, remittances and financial rents)

Honduras is traditionally a country which exports coffee and bananas, however since 1998 and 2001 both these export goods have lagged behind remittances, *maquila* and tourism in terms of volume of inflow of foreign currency. *Maquila* – in any event only in the broadest sense a rent – has existed in Honduras since 1987. Up to 2000 there was a large increase to report in its revenue (proportion of total revenue from traditional export goods, *maquila* and tourism), from in 1990 3.5 % to in 1999 29.3 % (Agosin/Machado/Nazal 2004: 45). In a period of just under 10 years 100,000 jobs were created in the *maquila* industry. Between 1990 and 1991 in particular there was an enormous jump – in this short period the number of *maquila* zones doubled. As a result Honduras's *maquila* in 1999 had the highest percentage share of net product and also the highest rate of increase in the region. As far as *maquila*'s net product in the country's balance of payments is concerned, the largest increase was recorded between 1997 and 1998 (Banco 2002: 9). Up to 2001 the *maquila* generated the largest inflow of foreign currency in Honduras. The development of the *maquila* is linked with the migration of labour into smaller towns, and this recently. The new industrial belts (Choloma, La Lima) around the major cities – where 70-80 % of the population work in the *maquila* industry – are the *maquila*'s base. For a population growth such as this, however, the industrial belts do not possess an adequate infrastructure by a long way. In this way the earlier social implantation disappears and anomie, which encourages violence, takes its place. Some three-quarters of *maquila* workers are women, primarily aged between 18-23 years. As a result the labour market situation for men of the same age living in these regions has worsened in relative and also absolute terms. They feel powerless, are frustrated and migrate – to the USA or straight into a *mara* (ERIC 2005: 153). Anomie and readiness to commit violence gained ground dramatically in these regions when in 2001 20 *maquilas* were closed down and in the most confined space 25,000 *maquila* workers were laid off – i.e. a quarter (Floresi et al. 2004: 191).

The first migration into the *maquila* engendered presocialization for the second migration, this time abroad, mainly to the USA, specifically with the objective of working to

earn remittances (Puerta 2007). Honduras confirms the finding that the three most intensely violent countries in Central America are at the same time characterized by high rates of remittances.⁷ Unlike these Central American countries there was no significant migration abroad on the part of the Hondurans until later on, in the second half of the 1990s, especially after Hurricane Mitch. Subsequently however this took on the strongest dynamic in the whole of Central America: the number of Honduran migrants rose by 66 % between 1990 and 2000. Guatemala, the country in the region with the second strongest dynamic, managed a rise of only 38.6 % (PNUD 2006: 151). In 2004 800,000 Hondurans migrated abroad, and in the mean time this figure is thought to be one million (PNUD 2006: 154). Sociological studies showed that about half of Honduran *mareros* are the children of the migration (at home or abroad), as they were not born in the cities (Tegucigalpa and San Pedro Sula), in which they are now active as *mareros* (Save the Children et al. 2002: 64). Between 1992 and 1996 Honduras, together with El Salvador, already had the highest rate in Central America by a long way of people deported from the USA (Meza/Salomón 2005: 103). Between 1998 and 2002 Honduras even overtook El Salvador in this regard (Rocha 2006: 48). This connection is therefore relevant, because those deported from the USA are an important catalyst for the evolution of *maras* in Central America.

Remittances, the objective of migration, correspond in Honduras to 15 % of GDP and 71 % of export volume (PNUD 2006: 153). 11 % of all Honduran households are in receipt of remittances. Just as in El Salvador, although not amounting to quite as high a value, remittances in Honduras also rose enormously in the 1990s, to some 28 % (FONAMIH 2004). As in El Salvador, in Honduras 80 % of remittances are channelled into consumption and are not put to productive use. In 2001 the proportion of remittances making up the inflow of foreign currency overtook that of the *maquila* for the first time. As a result in Honduras as in El Salvador it is sources of finances which – if one takes labour and means of investment as a unit – do not originate from indigenous sources and which do not strengthen the local production of capital goods, which determine the inflow of foreign currency.

3. *From agrarian rents to financial rents and from a traditionally non-oligarchic elite to a new (financial) oligarchy*

An additional new rent in Honduras is financial rent, which has become the most important surplus of the economic elite. It is true that there is traditionally no (coffee) oligarchy as national class, however with the advent of the (new) financial rents in the 1960s a financial oligarchy appeared on the scene, which now unites 25 groups and controls 60 % of the capital. It stemmed from a more recent immigration which took place at the end of the 19th and beginning of the 20th centuries (Euraque 1996), and fulfils all the criteria of an oligarchy. As a result a transformation took place in Honduras just as in Guatemala and El Salvador, although earlier in the latter than the former, from agrarian rents to financial

7 The causal connection between high volume of migration abroad and remittances on the one hand, and violence on the other has already been illustrated using the example of El Salvador (Zinecker 2007: 13-23).

rents, and from *hacendados* to - in Honduras at any rate new - (financial) oligarchies. Special prominence in this is held by the family names Facussé, Kafati, Bendeck, Kattan, Goldstein, Rosenthal, Maduro and - as an “organic intellectual” of this group - also Rafael Leonardo Callejas, who in 1990, in the middle of the transition, became president.

As far as the *political* enabling structures for violence are now concerned, as a rule these consist of a quite specific configuration of regime hybridity and that frustration which manifests itself if a transition from military dictatorship to democracy ends unfinished and remains stuck in regime hybridity. Regime hybridity comprises in addition to democratic segments also non-democratic segments (Zinecker 2004: 248). Besides not living a civilized life and not being under the rule of law, the non-democratic segments include political exclusion, which can also continue to exist in the case of newly achieved electoral democracy. This is the case in Honduras. Here a transformation has taken place

4. *from an inclusive military dictatorship to an admittedly democratic, and at the same time still politically exclusive regime, which claims to be a democracy, as well as from a politicized, politically active to a de-politicized, politically inactive population*

Despite incontestable success on the road to more democracy, consequently to civilian rule and an electoral democracy, greater political exclusion and lower participation than before is now apparent, if this difference is not measured in absolute terms, but by the framework, which a military dictatorship and a democracy respectively offer ideally for this. This way of measuring is therefore relevant, because frustrated expectations and relative deprivation do not arise from something getting worse, but from something remaining worse than was anticipated in view of the process of transformation. In Honduras labour, farmer and student movements drastically lost power, and new civilian organizations were unable to capture this for themselves. The fact that electoral abstention in periods when democratic zones were being opened not closed increased by more than double within 25 years (1980: 18.67 %; 1981: 21.26 %; 1985: 15.98 %; 1989: 23.93 %; 1993: 35.04 %; 1997: 25.2 %; 2001: 33.52 %; 2005: 49.6 %), is in particular an indicator of the population feeling itself to be less and less represented in the political system.

Political passivity affects young adults under 30 years old, who nonetheless represent 65 % of the population. While youngsters especially were highly active in social movements in Honduras in the 1970s, in the 1980s almost all youth organizations (for workers and farmers) were banned. Only school and student organizations were permitted to continue, but these were corrupt. This vacuum in terms of organizations persisted after the transition. Nowadays young people no longer have any point of reference for political participation (Ordóñez 2007) - neither the traditional nor the opposition parties are making them any offers. “The only option for young people to take part in social life is the street” (Pineda 2007). “The word ‘rebel’ has now lost its political connotations and is a synonym for criminal” (Ordóñez 2007).

A difficult social situation generally compels young people especially to want to break out of the system. During the period of the Cold War and authoritarian regime the class struggle was the opportunity for an *exit*. Nowadays, as the Hondurans are witness to a

transition process which while admittedly now stalled is nonetheless largely completed, the only *exit* now open to them is that of migration and, if that does not work out, entry into the *maras*. However, in spite of exclusion and depoliticization the political system in Honduras has remained stable. But since as a result regime hybridity has also remained stable, it is a stability which hampers development.

Besides political exclusion, the poor performance by state security institutions – as an expression of the absence of the rule of law – is a crucial non-democratic segment within regime hybridity. In this report this is classified not under enabling structures, but under (absent) preventive structures.

3.2 Absent new preventive structures

Since Honduras has already gone through a process of democratization, the requirement on present preventive structures for violence must be that they are not only new, but also that they are democratic and in accordance to the rule of law. But even for this they must first and foremost function at the most elementary level. Preventive structures for violence primarily, although not only, come under statehood, especially the state security sector (police, judiciary, penal system). It will be shown below that in Honduras there is complete failure on the part of the security sector, without there being any fundamental failure of the state as a whole. There are two versions which go to explain this.

The usual version assumes that after every transition there is a state of affairs in which old security institutions supposedly no longer function and new ones are not yet able to function, all the more considering that the old state-builder, the army, has been largely stripped of its domestic political functions during the course of the transition and no new one has yet been found. According to this version, the problem in question is a transitory one, which will be overcome in time and with the appropriate injection of resources. The alternative version – given here – in contrast assumes that it is not a question of a transitory problem, as the capacity of the state security sector to function is not the intention of the ruling elite, on the one hand because other state institutions and informal mechanisms – including violence itself – are well suited to offsetting these deficiencies, and on the other because a state security sector which is able to function “too well”, might pose a threat to the elite’s living.

3.2.1 Security policies

“Our government has no criminal policy”, stated the national representative for human rights in Honduras Ramón Custodio (2007). “There is no integral security policy”, explains Rodolfo Zelaya (2007), president of the parliamentary commission for security and drugs trafficking. Ex-public prosecutor Rigoberto Cuéllar (2007) of the NGO FOPRIDEH adds that there are (security) policies by individual institutions which are completely separate from each other and often even contradictory. “There is no interest in containing

violence, even today”, according to specialist on violence Hilda Caldera (2007), “Nor is there any in the prevention or rehabilitation of perpetrators of violence. One gets the impression that the elite are of the opinion: ‘Let the *mareros* kill each other among themselves, then we would be rid of the problem’.”

Within the constant features confirmed by all observers of an absent coherent security policy there are three discernable phases.

Phase 1: Making security institutions according to the rule of law, but not showing any interest in containing violence

Under presidents Carlos Roberto Reina (1994-1998) and Carlos Flores Facussé (1998-2002), both from the PL, the fight against violence and crime was not prioritized in any way (CEDOH 2004a: 18), although both presidents shouldered the task of reforming those institutions responsible for the country’s domestic security. Under Flores’s government it was Hurricane Mitch, which pushed the topic of “domestic security” to the fringes during this period of Honduran domestic policy. However, the population perceived the lack of security as a major problem even then.

Under President Flores a constitutional reform was agreed upon, which increased the autonomy of the military and made the president commander-in-chief of the military. It is to Flores’s credit therefore that he dispensed with the position of head of the army and made the army answerable to a defence minister, who in addition had to be a civilian. Flores is also to be credited with passing a new police law in May 1998 and creating a new independent security ministry in December 1998 in the form of the Secretaría de Estado en el Despacho de Seguridad. With Elizabeth Chiuz Sierra, Flores also appointed for the first time a civilian (and a woman) to the top post in the security ministry. However, she was relieved of her office in 2000 due to incompetence, and replaced in the same year by lawyer Gautama Fonseca. Chiuz had largely disregarded the criminal investigation department (Cuéllar 2007). Fonseca in contrast lent the police his full support, including cleansing the force of human rights abusers and corruption, however he used very unconventional methods, such as collaborating with *capos* in prisons for example (Salomón 2007). The cleansing of the police force generated a great deal of bad blood, however, since it meant that staff at the DGIC were reduced in number by some 150. Fonseca therefore received no support from the legislature and also entered into conflict with the Ministerio Público, in which the public prosecutor’s office was firmly rooted.

Phase 2: High level of interest in containing violence – repression and withdrawal of rule of law

In the following presidential elections violence was already the main topic. In the electoral programme of the victor in 2001, Ricardo Maduro (2002-2006), security of individuals and property were number one on the list. Even here Maduro announced an intensification of punishment for criminal acts. Maduro, who had a particularly personal interest in combating violence, as his son had been abducted and murdered in 1997, championed a policy of “zero tolerance”, or *mano dura*. After taking office, Maduro himself along with

his security minister Oscar Álvarez, in bullet-proof vests, mostly drove into poor districts, accompanied by bodyguards and armoured vehicles, so as to arrest *mareros* within the framework of the police operation *guerra contra la delincuencia* (war against crime). All available police officers – Maduro had increased police numbers dramatically – and innumerable soldiers were stationed at strategic points during these actions. This made a great impression on the media and the population. However the *mareros* simply sat these actions out and took just a short “holiday”.

In 2003 Maduro had Article 332 of the Criminal Code reformed, which made membership of a criminal organization a punishable offence (and this without it being necessary to have been engaged in any criminal *activity*), while expanding this to include the *maras*. Although this was not a specific law, the article became known in colloquial language and the media – matching the Salvadoran example, where in contrast to Honduras such a law actually exists – as the “anti-*mara* law”. The reformed article signified persecution of *mareros* on the basis of arbitrary criteria. Maduro justified this by saying that he would rather abuse human rights in the case of a few criminals than put the lives of six million Hondurans at risk (cited in: CEDOH 2004a: 167). The law passed through parliament without any problem, where it met with the approval of all five parties, including the left-wing opposition. This, according to the president of one of these opposition parties, Jorge Aguilar, happened in good faith and because nobody could have foreseen the effects that this might have (Aguilar 2007).

After reform of the article, the heads of the youth gangs were first of all threatened with imprisonment for between nine and twelve years – previously it had been three to six years – and fines of between 10,000 (USD 530) and 200,000 (USD 10,600) lempiras. For those who are merely members the sentence continued to be a third. In 2004 the sentence for ringleaders of youth gangs, *maras* and other criminal organizations was once again increased to 20-30 years. The fines were increased to 100,000 (USD 5,300) to 300,000 (USD 15,900) lempiras.

The reformed article, which instead of a concrete criminal offence sanctions merely belonging to a group, goes against the constitution, as it infringes individual civil rights and liberties as set down in the constitution, especially in Article 90. At the same time it undermines the principle of assuming innocence until guilt is proven. The president of the Supreme Court Vilma Morales is of the opinion however that the term “illegal organization” already contains the implication that people are getting together so as to commit a crime and correspondingly to plan this, which would indeed be punishable. However, even for this, evidence would of course be necessary (Morales 2007). Felix Maldonado, Comisario of the DCIC, disputes the idea that there are *mareros* serving a prison sentence *simply* because they are the member of an illegal organization, including the *mara*. There would have to be other crimes for this to happen. *If* these individuals *are* however members of a *mara*, then that would of course increase the severity of the sentence. Other than required in the text of the new criminal law, in reality belonging to a *mara* was only “one more element” in criminal prosecution, “but one which is in addition extremely difficult to prove” (Maldonado 2007).

Furthermore the “law” contravenes the requirement that nobody ought to be prosecuted for belonging to an illegal organization, without the existence of such a group having previously been established using clear criteria (Orellana 2004: 61). Every gathering of youths might in this way be perceived to be a *mara* and every young person a *marero*. All that would be necessary would be for young people to get together in a group for them possibly to get arrested by the police (Orellana 2004: 63). Every crime committed by a young person could be traced back to the *maras*, even if the young people were just normal criminals. Furthermore, neither „youth gang“ nor „*mara*“ are defined in the laws and consequently nor is the difference between the two. Both terms are used in different ways, sometimes as synonyms, sometimes as contradictions. If additionally the “permanent intention to commit a crime” constitutes the denomination of an illegal organization, the question arises of how such permanence can be established. A single deed, which could at least still *relatively* easily be ascertained, was not sufficient to constitute permanence and could therefore, from a legal point of view, not even then be deemed grounds for prosecution, if it had actually been committed. It was also unclear from a legal point of view how it might be proved that someone was head of an illegal organization, as a particularly heavy sentence was destined for this person, and it was out of the question that heads would accuse themselves. At the same time, the *mareros* were always denying that they have any heads (Orellana 2007). All in all, according to the “anti-*mara* law” on the one hand the *marero* was perfectly suited to play the part of overall scapegoat, all the more so because they could easily be perceived to be terrorists. On the other hand, the “anti-*mara* law” is needed in order to conceal how miserably badly investigative procedures are functioning.

Together with this legal offensive, Maduro involved civilian society in his security policy. Led by a Programa de Comunidad más Segura (programme for a safer society), which assumes that the police are not solely, but jointly with civilian society, responsible for security, he had already planned from December 2002 to build networks between neighbours in urban districts to prevent violence and coordinate this with the cooperation of the Policía Comunitaria (also known as the Municipal Police). This police force, which can be formed by the municipalities if they have the requisite economic means, existed already at this time but was lent new weight by the programme. Unlike the earlier Comités de Seguridad (security committees)⁸, which had formed paramilitary gangs to restore order, the new Comités de Seguridad Ciudadana were not allowed to carry any weapons. They were supposed to support the restoration of public spaces, especially park areas, reduce risks in residential areas, by making sure there was electric street-lighting, tell the police in which areas drugs and alcohol were being sold, find out about ownership of handguns in urban districts, and reinforce the sense of belonging and of keeping a lookout without any panic. In the event of anything unusual they were to call the Policía Comunitaria (Romero, R. 2007). The programme was not greeted only with satisfaction however. Most of all the

8 On behalf of the Comités there were patrols, which were even armed with large-calibre weapons. As the function of the Comités remained unclear and they were inadequately monitored by the security ministry, it repeatedly happened that people ran into them, who wanted to settle their own old scores, collaborators and informants of the old DNI or simply people who hoped to be able to command power in the district through being involved in these Comités (CEDOH 2004a: 16).

police now fear that by involving civilian society in the field of security they will lose their own authority but also their access to corruption (Romero, R. 2007). Of course there was criticism from some parts of the population, namely that the door had been opened wide to arbitrariness, as the hour had now come for the *sapos*, those people who inform on unpleasant neighbours without needing to do so. Furthermore, under the protection of these Comités the civilian population continues to meet, supported by the state security sector, in order to take the law into their own hands. There had even been cases of lynch law, before the suspected perpetrators had been handed over to the police (O'Hara 2007). The programme launched by Maduro, *programa de comunidad más segura*, is formally continuing to run under the present government of Zelaya – but with very little activity any longer – under the name *mesas de seguridad ciudadana* (dialogue tables on public security).

With the Consejo Nacional de Seguridad Interior (CONASIN) an additional security institution was formed under Maduro in 1998, in which civilian society was supposed to be actively involved. CONASIN consisted of six representatives from the state and five representatives from civilian society. The chair of CONASIN was the security minister. The representatives from civilian society were each appointed for a period of two years. Formally it was the task of CONASIN to elaborate and coordinate strategies, and, together with the Unidad de Asuntos Internos formed within the police force, to monitor and evaluate security institutions. Since however it was always dependent on the security minister, and could only be convened by him, CONASIN was in reality not very well able to control the police under his command. Civilian society in any case never rendered account to CONASIN for anything (Orellana 2004: 38). In the end CONASIN had merely an advisory function and always remained weak. In the mean time it has ceased to be active.

Phase 3: Declining interest in containing violence – partial lifting of repressive measures without renewed application of the rule of law

President José Manuel Zelaya (PL), in office since January 2006, had to stand out from his adversary Porfirio Lobo (PN), if he wanted to win the elections. This put a very distinctive stamp on his security policy: as Lobo championed an even harder line than Maduro in security policy, including introducing the death penalty, Zelaya aligned himself with an at least partially “softer” policy, characterized after his election and still today primarily by apathy. However, the “anti-*mara* law” continues to be in force under him, although the persecution of *mareros* has meanwhile become a little less systematic (Noll 2007) and more subtle (Herrera 2007). Zelaya’s security minister, Álvaro Romero, explains: “I do not believe in the anti-*mara* law. The anti-*mara* law is not being implemented by this government. I believe that a democracy should even allow criminals to meet up, which is not to say that crimes should be tolerated” (Romero, Á. 2007). As far as the law is concerned well-meaning insiders are of the opinion that it has the advantage of referring to organized crime at the same time as to the *maras*, which is anyway in the sights of the security policy as from now (Morales 2007).

One of the reasons for this cautious transformation in security policy is certainly that through the activities of the Maduro government many *mara* heads had already been imprisoned. If under Maduro illegal arrests, house-searches without a court warrant and

outside legal hours, and joint patrols by the police and the military had been the order of the day, this was at least no longer the case under Zelaya. If the fact that a person had a tattoo was enough for them to be arrested under Maduro, now care was taken to look closely and see if it was a *mara* tattoo. However, tattoos are in general not prohibited by any law. In order for a person to be able to be accused of belonging to an illegal organization, including a *mara*, it is still not necessary even under Zelaya to have any legal proof, but an “anthropological investigation” (Cuéllar 2007), which focuses on analyzing tattoos.

While the representatives of Zelaya’s government, such as the security and defence ministers, naturally emphasize how big the difference is between the hard security policy of the previous government and the soft policy of their own government (Romero, Á. 2007; Mejía 2007), and play with this supposed dichotomy (Romero, R. 2007), other observers notice – especially if they belong to the previous government party – more continuity and less of a break, according to Rodolfo Zelaya, president of the parliamentary commission for security and drugs trafficking, for example, or also Ramón Romero of the Autonomous University of Honduras (Zelaya 2007; Romero, R. 2007). The only relevant differences, which representatives of both governments ascertain for both presidential periods, are as follows:

- the focus of security policy was directed earlier on the *maras* and is now on organized crime,
- the present government is less interested in courting the media with its security policy,
- Maduro’s government was more repressive in the way it dealt with violence than Zelaya’s now is, but made a clearer distinction between police and army.

It is these differing security policies which explain the sine curve graph form of the homicide rate not only in Guatemala and El Salvador, but also in Honduras during and after the transition: the level of violence rose steeply first of all, in view of the vacuum of institutions in the security sector. It then fell in between in the context of newly established democratic security institutions, only finally to rise steeply once again in the course of continuation of regime hybridity and under the particularly repressive security policy of Maduro’s government. It is not yet possible to tell what effect Zelaya’s softer policy will have on the homicide rate. In the end, however, an ambivalence of repressive and preventive containment of violence can be ascertained for the security policy of both Maduro and Zelaya, and at the same time the weight of both approaches is respectively shifted under Maduro in the former, and under Zelaya in the latter direction.

3.2.2 *The state security sector*

Ideally the Honduran security sector functions as follows: either the police catch a perpetrator in flagranti, or the case is reported to them. Within six hours they must register the case with the public prosecutor’s office. As a rule, the case is reported directly to the public prosecutor’s office, however. The public prosecutor’s office now orders an investigation from the criminal investigation department. If the investigation report is incomplete, the public prosecutor’s office returns it to the criminal investigation department with the

request that it be completed. If it is complete, it is handed by the public prosecutor's office to the judiciary. A first judge (Juez de Letras) then initiates proceedings. The sentence is pronounced by the criminal court (Tribunal de Sentencia). Finally the serving of the sentence is reviewed by a further judge (Juez de Ejecución de Penas y Medidas de Seguridad). Until sentence is passed, further assistance can be required by the judiciary from the public prosecutor's office and criminal investigation department. Specialists perceive the weakest links in this chain to be the criminal investigation department and the public prosecutor's office. Among the population it is the public prosecutor's office which is the most trusted, and the penal institutions and police force which are the least (CEDOH 2004a: 52).

Police

From 1975 to 1995 the Honduran police force (then: Fuerza de Seguridad Pública/FUSEP), alongside the army, navy and air force, was part of the armed forces and was under the command of the military. Only the commander-in-chief of the army was authorized to give it orders. Although the process of democratization had already begun in Honduras in 1980, the police force was not formally separated from the army until the establishment of the Policía Nacional, which in 1998 was made answerable to its own security ministry. The renewal of the police along with its democratization initially aroused high hopes. However, there was no cleansing carried out at the highest echelon of its leadership. Even its most senior employer, the present security minister, acknowledges: "The greatest part of the present top management still dates from the days of the military dictatorship" (Romero, Á. 2007).

Under President Carlos Roberto Reina those laws were enacted which provided for the disbanding of the criminal investigation department (DNI – Dirección Nacional de Investigación) and creation of the Ministerio Público (public prosecutor's office). The Ministerio Público has existed since 1994. The DNI, under military dictatorship and responsible in quite a particular way for human rights abuses (torture and abductions), was disbanded in 1994. The majority of its members were dismissed. The police (PP – Policía Preventiva) was at that time still a branch of the army. It was later taken over „en bloc“ by the security ministry, that is to say without any cleansing. In 1995 the new criminal investigation department (DGIC – Dirección General de Investigación Criminal) and the Administration for the Fight against Drugs trafficking (Dirección de Lucha contra el Narcotráfico) were established and in 1996 – following the Costa Rican model – they were made answerable to the Ministerio Público. On this new basis the DGIC began by investigating human rights abuses, robbery, bank raids and abductions – even against members of the police force themselves. During this period the DGIC, composed of new cadres, evolved in an "exemplary" way (Salomón 2007). In order to create a new criminal investigation department, the risk had even been taken to be without a criminal investigation department for eight months.

However, following protests from the political class, in 1998 the DGIC was withdrawn once more from the responsibility of the Ministerio Público under the new police law, and allocated to the security ministry. "The criminal investigation department had been

exploited by the public prosecutor's office for political ends", is the justification for this step given by the present security minister Romero, "And society feels itself threatened by such a political police force and requested that it be removed from the public prosecutor's office again. Parliament then decided in favour of this" (Romero, Á. 2007). Like the PP the DGIC is now under the jurisdiction of the security ministry, at the same time however the Ministerio Público continues to be authorized to issue it directives – although only from a technical and legal point of view. Legally it is unclear whether the security minister is actually right at the top in the police hierarchy (Orellana 2004: 19). The dual subordination to two ministries causes confusion in the DGIC, and the large degree of detachment of the DGIC from the Ministerio Público has led to its members refusing to comply with orders from this ministry. Members of the DGIC are for their part dissatisfied, because they, as they put it, do not feel supported by this ministry, as it does not say how they should overcome the shortcomings (Maldonado 2007). The DGIC being placed back under the command of the security ministry resulted in a massive loss of professionalism and the decrease in the number of cadres at the DGIC, which was reduced from 550 to 328, at a time when the levels of violence were beginning to rise steeply again.

Maduro's security minister Oscar Álvarez is supposed to have said that the demands on a criminal investigation department officer should not be exaggerated, as any police officer could be entrusted with investigative duties. There are in the DGIC investigators who have completed no more than three years at elementary school (Cuéllar 2007). A serious investigation contradicts the populist policy typical in Honduras, according to Cuéllar, since investigative procedures must be carried out secret, but populism in contrast needs the public. On the one hand, the majority of the extreme levels of impunity in Honduras is based on inadequate investigation, and on the other efforts are being made to stimulate the impression in the population that something is being done against violence and criminality. This leads to people being arrested arbitrarily. All that is needed for an arrest is for a finger to be pointed at someone with the words: "I think it was them!" (Cuéllar 2007) In the case of the *mareros* tattoos are sufficient evidence or, as new *mareros* are no longer getting tattoos, merely the fact that someone was seen in company with *mareros*, "looked at someone in a violent way" (Cantillano 2007), or dressed or walked in a certain way.

The police force, according to the unanimous line taken by all observers, is involved in organized crime, and cooperates with the *maras*. "No wonder", comments Rodolfo Zelaya, "low-ranking police officers live in the same districts as the *maras* and are therefore considerably at risk" (Zelaya 2007; cf. also ERIC 2005: 131). One and the same police officer can simultaneously be receiving financial injections from "concerned" citizens with the instruction to kill *mareros*, and from *mareros* with instructions to leave precisely these alone. The *mareros* make their own pistols (*chimbos*), and they get their ammunition from the police (Ordóñez 2007).

While still under Maduro the police in Tegucigalpa, San Pedro Sula and Choluteca possessed four secret Casas de Seguridad (safe houses) in remote areas – a tradition, which derives from the military dictatorship –, where they stored illegal high-calibre weapons and tortured individuals. There remain staff in the police who belonged to the

armed forces and had contact with death squads. There are still today some 20 teams in the police which have connections with death squads (Borja 2007). The police are responsible for killing not only *mareros*, but young people in general.⁹

The fact that police carry out out-of-court executions is proven. Under Maduro's government 70 police officers were accused of this. A particularly striking case is that of young Darwin Roberto Saucedo Flores, member of Barrio 18, who at 17 years of age, therefore still a minor, was shot by police in February 2002 after repeated torture in different police stations (Sauceda 2007).¹⁰ While some are of the opinion that this latter is a one-off case and not the policy of the police as an institution, others believe that these cases are at least tolerated by police leadership. Insiders in the police, such as María Luisa Borja, explain that this had been state policy, at least under Maduro (Borja 2007).

The case of María Luisa Borja, former head of the Unidad de Asuntos Internos de la Policía (Police Internal Affairs Unit), attracted considerable attention: as part of her function she discovered and verified through investigation that four high-ranking police officers – one of whom is now the PP and the other inspector general of the penal system – were responsible for out-of-court executions. Although Borja presented the entire documentation from her investigation to her employers, and also to the public prosecutor's office, the parliamentary president, the national representatives for human rights and CONASIN, the four police officers were cleared of any offence. Borja thereupon informed the public in a press conference. She was subsequently, after 25 years membership and ultimately having reached the rank of Comisionado or police chief, dismissed from the police in disgrace for betraying state secrets. It must however be open to doubt as to whether murder can be considered a state secret in a state under the rule of law (Borja 2007). Borja, her husband and her sons thereupon all became victims of her so-called crime, being persecuted by the police, their homes bugged, her sons arrested on some pretext and beaten up. In the cause of María Luisa Borja the president of the supreme court and member of CONASIN is supposed to have said: "We have neither vote nor right to vote in CONASIN" (cited by Borja 2007).

It is completely standard practice in the police to treat those arrested with cruelty – they are beaten, stabbed, have burning matches and cigarettes stubbed out on them, and are exposed to petrol fumes, all this independent of whether they are guilty of a crime or not. María Luisa Borja claims that of ten people arrested by the police, seven are beaten (Borja 2007). Bertrand Rossier, project coordinator for Médecins sans frontières, reports that of 111 youths (none of whom was a *marero*), who presented themselves to the doctor

9 One case became famous, in which in 2004 youths playing basketball were arrested on the playing field by people in police uniforms with high-calibre weapons, and later killed. The press however featured the headline: "War between *maras* leaves four dead".

10 Over a long period of time the mother, Sara Saucedo, managed repeatedly to buy her son free – although with traces of torture – for a couple of hundred lempiras from whichever police station where he was being held. One day however, she received an anonymous telephone call: "Now we've got the son-of-a-bitch!" A little later the morgue called. The shots in the boy's chest were in the form of a cross. Mrs. Saucedo began her march through the legal institutions, unsuccessful so far (Sauceda 2007).

at his project with open wounds, broken bones, haemorrhages and shot wounds, 30 % stated that they had been abused by the police (Rossier 2007). There are also examples of torture in the narrow sense of the word, as those arrested are said to have been forced to make a statement with the use of violence. Maritza O'Hara Cárcamo of the CPTRT, an NGO, who takes in the victims of torture, reports two cases which happened in 2006 in San Pedro Sula and in 2004 in Tegucigalpa. In one case an arrested individual had a hood put over their head as a preliminary to being suffocated, with the aim of coercing them into making a confession. In the other case, an individual was supposed to denounce collaborators – and for this they were hung up and several shots fired into their body (O'Hara 2007). On the one hand this is, according to Maritza O'Hara, an attitude which has been handed down from the days of the military dictatorship (O'Hara 2007). On the other, according to María Luisa Borja, police officers nowadays are passing on all the bullying that they had to endure as cadets at police academy to suspected perpetrators of crime (Borja 2007).

"The police force", as even its present most senior employer, security minister Álvaro Romero, acknowledges "has no personality of its own. At the moment we are engaged in creating the institution; we are just setting out to do this" (Romero, Á. 2007). Currently, the DGIC has 500 and the PP 9,000 members. This means that Honduras has the smallest police force in the whole of Central America. Overall, the DGIC performs even worse than the PP. It delivers incomplete and unacceptable written reports: again and again the names of the suspected perpetrators are missing from them, because only aliases are given or because the circumstantial evidence has been wrongly written down (CEDOH 2004a: 75f). Many police officers are unable to type and prepare the reports by hand, with numerous spelling mistakes. The DGIC needs six to seven months for a report. The DGIC has no laboratory for DNA analysis (Romero, Á. 2007). An autopsy takes months. This is made even more precarious by the fact that while under Honduran law circumstantial and witness evidence are complementary, in case of doubt circumstantial evidence is decisive. Furthermore, the DGIC lacks vehicles, staff and a robust IT system. Added to this are poor administration and staff policy. As Felix Maldonado explains, this leads to DGIC staff having to work 12-hour days. If a criminologist has to process 50 cases at once, this can result in their becoming demotivated, says Comisario Maldonado (Maldonado 2007).

Under the present president Zelaya ex-generals occupy top positions in the Ministry for Domestic Security and therefore ultimately in the police force. Even the minister's advisers are ex-military. The police force is once again quartered in barracks and operates using military methods, which are entirely inappropriate for the field of domestic security, at least under non-authoritarian conditions where it is no longer a matter of disposing Communists. In this respect the police force has been re-militarized and many police officers are unhappy with this.

According to the Honduran constitution, the military can be called upon for assistance in the event of catastrophes, unrest and armed uprisings, which the police are unable to contain by themselves, so as to ensure domestic security and support the police force. The Maduro government made excessive use of this rule to fight the *maras*, thereby hindering the independent evolution of the police force. The present government under Zelaya takes

a critical stance on this, but deploys the army nonetheless within the country – as an exception, claims defence minister Aristides Mejía – to fight against drugs trafficking, but also in situations which have got out of control or in the case of new threats, and moreover in joint patrols with the police, but where it is the police which is responsible for command (Mejía 2007). When questioned by author as to which criteria apply for the armed forces to be involved in controlling domestic security, defence minister Mejía replied: “If the population asks for it.” In reply to the next question as to how it was possible to measure this, the minister said that it could be judged from the media, in which the population expresses itself (Mejía 2007).

In the joint patrols by police and army, the police actually has command, however, Rodolfo Zelaya, president of the parliamentary commission for security and drugs trafficking, emphasizes that the military want to assume absolute command for these patrols, because they consider themselves to be better trained. In any case, according to Zelaya, the military already carry considerable weight as a result of this in the area of domestic security, because they simply have more resources (Zelaya 2007). Their outstanding importance arises from the high proportion of the financial budget given to them, with which they are reinforcing their institution. Here the true inadequacies of the police run up against the ambition of the military to win back political influence for their involvement in domestic security. For over 20 years the military were the strongest political force in Honduras. With the transition however they lost a considerable amount of importance on the domestic political scene. For Honduras it therefore proves true, and this also still after the transition, that the police force is the “poor cousin” of the state and the army its “more prestige-laden favourite” (Schlichte 2005: 140).

Judiciary

The Honduran judicial system has all the inadequacies typical of any Latin American country undergoing a process of reform (Ambos 1999: 203f) – only it intensifies these inadequacies. Even the present president of the Supreme Court Vilma Morales complains that “there is no functioning judicial system yet” (Morales 2007). The judiciary has always been the weakest of the three powers in Honduras. In the course of the transition it did become formally independent, true enough, however its actual lack of independence from the executive and also the legislature and the political parties continues to be its greatest weakness. In comparison with the rest of Central America Honduras has the lowest independence of the judiciary after Nicaragua, and its highest politicization (Ramos 2005: 21).

In Honduras the jurisdiction, including the Supreme Court, the Courts of First and Second Instance and the Justices of the Peace, all come under the judiciary. The Supreme Court – which previously regrouped public prosecutor’s office, defence and judge, so that there was no distinction between investigation, prosecution, defence and sentence – is nowadays composed only of judges, 15 in total, elected for a period of seven years by parliament with a two-thirds majority. Candidate proposals for the Supreme Court are no longer put forward by parliament, but by civilian society. It is nonetheless then parliament which selects the Supreme Judge from their 45 proposals. The selection procedure for the judges at the Supreme Court, as for the judiciary in general, continues to be highly

politicized (Noll 2007) and does not function in accordance with the principles of competition, that is not in accordance with the planned law or *Ley de Carrera Judicial*, but according to political friendships, in particular of the president of the Supreme Court (Posas 2003: 17). The Supreme Court itself is nowadays composed more or less equally of representatives of the PN and the PL. The radical opposition parties were never represented there. The party ruling at the time of the election of the Supreme Judge always has in this figure one representative more. Thus the Supreme Court is the most critical point in the two-party system and in the political regime overall. (Barahona 2006: 16).

Meanwhile the *Ministerio Público*, part of which is the public prosecutor's office, which is responsible for criminal jurisdiction and directs investigations, should no longer be classified as the administration of justice but probably as the judiciary. The *Ministerio Público*, according to its former chief, ex-Attorney General Edmundo Orellana, does not fight against criminality directly – that is the task of the police force –, but against exemption from punishment (Orellana 2007). The *Ministerio Público* is the result of the transition, since before this the public prosecutor's office was part of the Supreme Court, and as such not distinct from the Bench. Nowadays however this ministry is the crucial weak point in the justice sector, although until 2003 it was still entirely politically neutral and efficient. "In the *Ministerio Público*", according to Cuéllar, "Nobody knows even the slightest thing. There is intentional chaos" (Cuéllar 2007). Frequently the public prosecutors are simply too lazy to read a report and therefore give it back to the criminal investigation department as "unsatisfactory" (CEDOH 2004a: 88). A key reason for the inefficiency of the public prosecutor's office lies in the corruption which prevails here. There is a public prosecutor responsible for corruption, at the same time however under the law corruption can be reported to any public prosecutor. This is dangerous for the public prosecutors who for their part are involved in corruption, especially if they are not designated to fight corruption. Furthermore, leading public prosecutors make sure that those who rigorously take action against corruption are dismissed from the public prosecutor's office, and that incompetent individuals who are unable to notice corruption or any inadequacies on their boss's part are appointed to subordinate positions. In this way these public prosecutors are not even forced to issue illegal orders – the incompetence of their subordinates is enough to let investigations come to nothing (Cuéllar 2007).

To show for itself, Honduras has a high level of exemption from punishment and a very long-drawn-out legal process. Of the cases which are reported to the *Ministerio Público* or, much more rarely, to the police, some 15 % are forwarded to the criminal investigation department for investigation. These are almost exclusively cases in which the perpetrators have been caught red-handed. Thus the other 85 % of cases are not even made the object of any investigation. Since in homicides the perpetrators are as good as never caught in flagranti, there is an almost 100 % level of exemption from punishment in this area of criminal prosecution. Thus exemption from punishment applies almost exclusively to the worst crime that there is: homicide.

If corpses are found, it takes up to a year before a court is able to sentence the perpetrator (Maldonado 2007). The longer this delay, the more difficult it becomes to furnish evidence. Of every 15 % of crimes which are investigated, charges are brought in 15 %. Of

these it is in turn 10 % which appear before the Court of First Instance (Audiencia de Declaración), where the charges are read out. Only 4 % of these make it through the next two court instances (Primera and Segunda Audiencia), in which it is verified whether the evidence is sufficient to pass a sentence, and of these only 3 % actually are convicted (Tribunal de Sentencia). According to Cúellar this results in a level of exemption from punishment of more than 99 % (Cuéllar 2007). In her calculations Leticia Salomón reckons that perpetrators in only 0.1 % of – reported – cases are convicted (Salomón 2007). The strange thing is, that at the same time 62 % of the population admit to knowing the name of the perpetrators in criminal acts (CEDOH 2004a: 47).

Although the rate of exemption from punishment in all three intensely violent countries of Latin America is high, Honduras tops the list in this instance. Also, as far as the long-drawn-out nature of the judicial process is concerned, Honduras occupies first place in the group of intensely violent countries in the region (Ramos 2005: 22), although in this case the countries with relatively low levels of violence, Nicaragua and Costa Rica, are in an even worse position. There however the inadequacy in the judicial system is offset by better performance by the security sector, in particular the police force. Even in terms of numbers of courts on national territory, Honduras is worst off (Ramos 2005: 29).

There is no witness protection programme in Honduras, although provision is made for one in the code of criminal procedure. On the one hand, according to Rigoberto Cúellar, “Witnesses are so well protected that the court cases look more like a Hallowe’en party. They wear hoods or balaclavas and are led into an enclosed booth, a sort of confessional, so that they will not be recognised” (Cuéllar 2007). In every case they appear before court anonymously, identified only by a code (Maldonado 2007). This alone contravenes the law, as the defence is not allowed to argue against someone without knowing who they are. In this way any neighbour might declare themselves a witness even if they hadn’t seen anything of how the crime took place, simply because they bear the accused neighbour a grudge. Even police officers declare themselves willing to bear false witness under this protection, whether for financial reasons or to clear themselves of incompetence. On the other hand, however, witnesses are no longer protected at all once they leave the courtroom and if, despite the disguise, it becomes known that they spoke out as a witness. Fear makes potential witnesses refuse to come forward to inform police about criminals and criminal acts, preferring to pretend that they “didn’t see anything”. Witness statements are also constantly being retracted.

In view of this precarious situation judges are in a particularly difficult position: They know that the “anti-mara law” is unconstitutional but are required to apply it. The evidence which lies before them for the dispensation of justice is completely inadequate. The judges are caught between Scylla and Charybdis: they can pass sentence in spite of insufficient evidence, but in so doing violate the constitution. They can release the accused on account of insufficient evidence, but in so doing violate the “anti-mara law”. Judges are now tending to adopt the second option. The president of the Supreme Court Vilma Morales in this case rightly promotes understanding for the fact that under the principles of law and order judges can only pass sentence if there is sufficient evidence available to them (Morales 2007).

Since in the fight against violence the regulatory mechanism of “law” is absent, it cannot even be demanded of the police, public prosecutor’s office and judges that they operate consistently, that is to say in harmony with one another. If relations between these three links create fractures rather than areas of overlap, so that in this chain the incompetence of the other can always be used as an excuse for one’s own incompetence, then the security sector is self-regulating – as a failing system. It is the penal system which, because it comes at the end of the judicial process, becomes the dumping ground for the incompetence. With it the judicial system itself ultimately becomes a place which regulates itself through violence.

Penal system

Unlike previously, the penal system is now no longer under the jurisdiction of the Ministry of Justice but of the Ministry of Security. In Honduras there are 24 penal institutions, in which 10,545 individuals are imprisoned. It is true that members of both *maras* are now held separately from one another in the prisons, so that they do not kill one another in there at least, however they are not separated from the regular prison inmates. There are repeatedly violent clashes. Álvaro Cáliz presents a table which illustrates that the penal system in Honduras is over-occupied to about twice its capacity, and as a result was at the top of Latin American statistics in 2002. According to this data, 78.5 % of prisoners are being held without trial or find themselves “in conditional freedom”. Only Paraguay has a higher percentage in this respect in Latin America (Cáliz 2006: 30). This includes the fact that individual prisons are up to 400 % over-occupied (CEDOH 2004a: 96).

Even Álvaro Romero, Minister for Security, confirms over-occupancy to about twice capacity and points out that the prison inmates are self-supporting (food, but also mobile telephones and marijuana, which their families smuggle in). While in the USA the state provides USD 66 per day for a prisoner, in Honduras this amount is USD 0.50 (Romero, Á. 2007). Many prisoners lack clothing, shoes, educational materials and even toilet paper. It is true that in many prisons – although not in all – there are doctors, however “these prescribe the same pills for every illness” (Prison inmate 2007; O’Hara 2007). The solitary confinement cells are particularly notorious, in which prisoners can be locked up for up to two years and are only allowed out for half an hour to urinate. As staff are unable to control the violence in prison, the prisoners live in permanent fear for their lives (O’Hara 2007).

In February 2007 the author visited the Penitenciaría Nacional de Támara. This is relatively new and ranks as “luxury accommodation” (Zelaya 2007) among Honduran penal institutions. At the same time there are prisons which were built at the beginning of the 19th century and have not been renovated in any major way since then. According to official statistics, there were 2,807 inmates imprisoned in the Penitenciaría Nacional de Támara in 2007, that is 1,300 more than there should have been. This prison houses only adult men over 18 years of age. The otherwise common unlawful incarceration of minors (under 21 years old) and adults was not apparent here, although the equally unlawful incarceration of prisoners awaiting trial (1,939 in total) together with those already convicted (837 in total) was. In each *hogar* (communal cell) – there are 16 of these per wing –

live 40 prisoners. For inmates who can pay and who have good relations there are individual cells however. Not all prisoners have a mattress to sleep on. The inmates in this prison are also largely self-sufficient. They even pay for their own rehabilitation – working in the *maquila*. Those currently in charge of the Penitenciaría Nacional de Támara admit that there was previously a situation of “ungovernability” at this penal institution. Indeed even nowadays the *mareros* of Barrio 18 exercise control from their cells. They are allowed to do as they please there (Ramos/Bonilla 2007). The prison leadership has in the mean time changed, and more, better qualified staff are expected.

There are constantly fatalities in the prisons. However, according to Maritza O’Hara, overall the prisoners are treated with greater moderation by prison staff. Cases such as hanging and electric shock treatment, which used to be commonplace, no longer occur (O’Hara 2007). Nevertheless there are prison uprisings and cases of prisoners taking over command of their prison. Fires are used by prisoners to make their escape. Several prison massacres have recently caused a sensation – whether this is indeed what happened is disputed. In the Granja Penal El Porvenir in La Ceiba in 2003 69 individuals died after a fire, of whom 61 were *mareros*. They were “shot while escaping” by prison staff and members of the armed forces. Those who pretended to be dead survived. In the Granja Penal in San Pedro Sula in 2004 107 members of the Mara Salvatrucha suffocated after an electrical fire in “Celda 19” – at this time 183 prisoners were living here in 200 sq m –, because they were locked in and could not escape. Staff were unaware of any risk of death. In January 2006 a massacre took place, this time among the inmates themselves but in any event tolerated by the prison staff, in the Penitenciaría Nacional de Támara to which 13 individuals fell victim. The director was dismissed, however the court case initiated against him was abandoned.

4. Conclusions

In Honduras in spite of extremely high rates of violence there is no coherent security policy. Under these conditions it is not even possible truly to talk about a security strategy, either on the part of the state or individual governments. In the final analysis it is *laissez faire* and *muddling through* which predominate. Honduran security policy follows the customary Central American cycle for intensely violent countries of “Creation of a new security sector/making the existing one more democratic – ignorance of the security problem – repressive measures – partial withdrawal of repressive measures”. Any successes already achieved as part of the evolution of the rule of law were ruined once more.

The governments in Honduras decided, just like their counterparts in both other intensely violent Central American countries, in favour of – legally – anchoring their repressive security policy in criminal law, and in so doing were not afraid to violate the constitution or break basic principles of the rule of law. The situation in Honduras is therefore not that generally criticized divergence between legislation under the rule of law and a reality which contradicts it, but an alignment between a formerly, in the immediate con-

text of the transition, to some extent “good” democratic law with “bad” reality. If the attempt to make “bad” reality match a “good” law was not successful, as in Honduras, then the rule of law comes to be seen as an obstacle and, especially when it comes to containing violence, is no longer perceived as a freedom, but as a corset, consequently as *sistema ultragarantista*. Honduran criminal law is not only lacking in rule of law, it also makes do without any clear criteria for criminal prosecution. For this reason, it is applied in the individual sections of the legal sector in an arbitrary way, if at all.

Police, public prosecutor’s office and judges are in spite of their poor performance not anarchic, but linked with a clear regulatory logic. Relations between the three instances are regulated in such a way that non-regulability is generated in the judicial system as a whole. Those steps, which taken together lead to an extremely high level of exemption from punishment even by Central American standards, build each other up and are intrinsically linked. On the one hand, responsibility can always be offloaded onto the other institutions. On the other hand, the principle of “Honour among thieves” also applies. Because the system fails when it comes to the requirement for domestic security, it can revisit attitudes which it held before the transition without any problem. At the same time, any benefice which was believed to be lost can be restored. By militarizing security policy and handing it over to civil society in a non-democratic way which can tend towards taking the law into one’s own hands, the inadequacies in the state security sector are intensified and made more permanent instead of being offset: none of the security institutions called upon for aid, whether military or private security services, death squads or civilian security committees, has an interest in making itself superfluous and consequently in strengthening the state security sector which is responsible for domestic security. Each feels itself quite at ease with this “offloading”, as in this way it does not have to abandon its incapacity to function. Overall, with institutions and policies working together, which are designed for the purpose in a state under the rule of law, violence is not curbed, but it is at least kept sufficiently in check for political stability not to be put at risk.

The fact that the failure of the security sector does not equate to fundamental failure of the state as a whole can be an indication that a failing security sector can be compensated in its function for the overall state and society through other, particularly well functioning state (party system, presidency and parliament) and informal (clientelism, nepotism, personalism or corruption) structures. It can also mean however that a weak security sector *and* a high incidence of non-state violence can incorporate themselves well into the overall state. Then the state would be strong and stable not in spite of but because of inadequate performance by the security sector.¹¹ That would mean that political stability would also exist not in spite of but because of high levels of violence. In Honduras this latter is nowadays the situation.

In general it has proved to be the case that oligarchy and democracy do not go together, and that under oligarchic rule it is possible to achieve at best regime hybridity. Oligarchy as minority rule cannot by definition want any (inclusive) democracy, because

11 I am grateful to my colleague Peter Kreuzer for this thought (Kreuzer 2007: 20).

it cannot be interested in getting rid of itself (Zinecker 2004: 1135-1137). It cannot therefore be interested in complete democratization or consequently in establishing rule of law or functional capacity of the state security sector, because this would ultimately have a boomerang effect against itself, against its own involvement in corruption, clientelism and organized crime. It is not a new idea that an absence of rule of law can be traced back to an assumption of influence by political authorities motivated in a power-strategic way (Merkel et al. 2003: 263). There is no doubt that this must be all the more immanent in the power-political calculations of the rationally acting *oligarchies*, which exclude democracy by definition. Only the fact that this is also the case in Honduras, and that there it determines in advance not only the democratic but also the “mere” functional incapacity of the security sector, was not noticed up until now.

In the dilemma between its own survival and a good performance by the state security sector an oligarchy will always opt for its own survival, because it is not interested in self-disposal, which would be a risk for it in the case of (democratically) functioning statehood. Normally, that is outside crises of rule, oligarchies do not need any strong security sector so as to keep their state strong. For they have another option for this: in a bizarre way they combine formalization (bureaucratization) *and* informalisation (clientelism and corruption) on the one hand with a suitably dispensed demand for non-state, but also state violence (or violent crime) *and* actions for the actual or apparent containment of this on the other. In this way they can best compensate the state security sector in its function for the state as a whole.

If deep-rooted economic and political transformation processes now come into play, as in Honduras, which reinforce social and political exclusion, reduce the chances of democracy and market economy, and annul earlier outlets such as capacity for reform, conflict mediation and inclusion, then, it should be feared that even the best homeostatic system could fall apart. An initial sign of this would be if violence penetrates the system. However, in Honduras this violence – luckily for its oligarchy – is criminal and not political in nature and consequently cannot direct itself at their leadership. Instead of now risking the (democratic) performance capacity of the security sector, the oligarchy now has it in its rational interest to incorporate this violence, which has already penetrated the system but which is not a threat to them inasmuch as it is criminal in nature, as a new and stabilizing sub-system into the homeostatic system, which has become unstable. In this way, violence simultaneously displaces capacity for reform, conflict mediation and inclusion, that is the previous props of the system which have now collapsed. Thus violence becomes a stabilizer for the system, not alone but in conjunction with the aforementioned formal and informal institutions.

In the case of an absence of “integration as (market economy) social organization” the integrative combination of clientelism and violence is anything but unusual, because it is excellently suited to at least maintaining an “integration as cohesion” (Zinecker 2007: 131). If it was therefore once an essential feature of the Honduran homeostatic system to exclude violence, it is nowadays its essential feature to incorporate violence as a new regulatory facility and use this very thing as a means of continuing to exist. For the oligarchy this has at the same time the advantage that non-democratic elements will thereby also be

preserved and legitimized. In this way the new homeostatic system becomes established and reinforced – from now on as regime hybridity. Simultaneously an additional transformation process – from regime hybrid to full democracy –, which would bring with it the demolition of the oligarchy, can be blocked.

Viewed in terms of the logic governing the system – and it is precisely this which is relevant for development cooperation –, the supporting pillar formed by violence ought not to be removed, without its being replaced by another. In other words, the containment of violence only works in an integrative way, this is only in so far as corresponding strategies keeping the whole system in view: at the level of *economic enabling structures* economic alternatives to the violence-tolerating and even violence-promoting oligarchy must be created for this, namely by strengthening the middle class and production of capital goods. In this way rents, including new rents (financial rents, *maquila*, remittances), can be pushed back longer term. This would lead to an empowerment of labour, and consequently of subordinates, and thereby diminish the attraction of violence. However, as long as this longer-term strategy is not able to bear any fruit, economic pressure should be brought to bear on the ruling oligarchy by means of the conditionality of a new kind of “structural adjustment”, so that they divert their income into the (indigenous) productive sector and as a result generate work. For the level of *political enabling structures* the point of departure should be that democracy not only presupposes free and fair elections, but also in addition political inclusion and participation opportunities: in this respect young people are a quite particular target group and indicator. If they were taken seriously by politics, they would not need any substitute such as the *maras* so as to develop a sense of self-worth.

At the level of *preventive structures* security policy concepts should be developed together with those politicians and civilians on the ground who would truly like to contain violence but do not know how this is to be achieved, with which existing democratic components and components of rule of law could be reinforced. Individuals seeking to implement the rule of law and order in the security sector should receive as much exposure as possible in the international public eye along with as much support. In so doing it should not be a question of replacing the state in the security sector by a civilian society, even less so because this would tend towards vigilantism and the law being taken into people’s own hands. As the present functional incapacity of the security sector is an integral part, the concept of how to overcome this must also be an integral part, and all of its three components – police, judiciary and penal system – should be included on an equal footing. Nonetheless the public prosecutor’s office, which once functioned well and which has also remained the employer of the police force, appears to be the key element here. It and the police force, in particular the criminal investigation department, should be allocated the largest share of support within the framework of development cooperation, even if this was for understandable reasons not usual practice previously. The Nicaraguan police force, which has succeeded in controlling violence in its country in spite of poverty, might act as a model for this concept. Overall, when it comes to containing violence it is important – as incidentally is also the case for fighting poverty – to take care that development cooperation funds do not seep away into dark Honduran channels. For this purpose additional staff are necessary in the Federal German institutions on the ground.

It is a mistake to think that, in order to stamp out violence, it is first and foremost necessary to fight poverty, so that the containment of violence would come about as a quasi by-product all by itself. Fighting poverty is the goal in the longer term, containing violence the goal in the shorter term. There is no linear causality between poverty and violence. Ultimately it should not be forgotten that it is not only war and terrorism, but also violent crime which destroys human lives in large numbers. At the end of the day, it is all one and the same to the dead as to whether they lost their life through a spectacular terrorist action or through some despicable violent crime. The fact that violent crime is also a security risk at regional and also international levels has in any event also been demonstrated long since by Central American drugs traffickers and the *maras*.

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